

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AMERICAN SERVICE INSURANCE
COMPANY, an Illinois insurance company,
Plaintiff,

v.

NAFTA GENERAL AGENCY, a Texas corporation, UNDERWRITERS MGA, INC., a Texas corporation, and RAMON VILLARREAL, an individual, Defendants.

Case No. 08 C 443

Hon. David H. Coar

**DEFENDANT'S EMERGENCY MOTION
TO COMPEL PRODUCTION OF DOCUMENTS**

Defendants, NAFTA General Agency (“NAFTA”), Underwriters MGA, Inc. (“UMGA”), and Ramon Villarreal (“Villarreal”) (collectively, “Defendants”), by and through their counsel, move this honorable Court pursuant to Federal Rule of Civil Procedure 37 and Local Rule 37.2 to compel the law firm of Freeborn & Peters to produce documents pursuant to subpoena, and in support of this motion, states:

1. This matter is set for hearing on Plaintiff's Motion to Enforce Settlement Agreement on May 29, 2008.
2. On May 22, 2008, the undersigned counsel for Defendants caused a subpoena to be served upon the Defendants' former counsel, Michael John Scotti III, an attorney with the law firm Freeborn & Peters, requesting production of documents relevant to the hearing set for May 29, 2008 including drafts of the alleged settlement agreement. The subpoena is attached hereto as Exhibit "A".
3. On May 22, 2008, at approximately 6:23 p.m., Mr. Scotti sent an email to undersigned counsel stating that the management committee of Freeborn & Peters forbid the

production of the subpoenaed documents until after a payment plan was in place between Freeborn & Peters and the Defendants relating to unpaid legal fees. Mr. Scotti's email is attached hereto as part of Group Exhibit "B".

4. On May 22, 2008, at approximately 10:46 p.m., undersigned counsel replied to Mr. Scotti by email and explained that the subpoena is narrowly tailored to the issues facing Mr. Scotti's former clients at the upcoming hearing on May 29, 2008 and that his firm's decision not to comply with the subpoena's request for documents would subject its former clients to significant prejudice as they attempt to prepare for the upcoming hearing. See undersigned counsel's email attached hereto as part of Group Exhibit B.

5. On May 23, 2008, at approximately 11:56 a.m., undersigned counsel telephoned Mr. Scotti's office and was informed by his assistant that Mr. Scotti was in court and that she would try to reach him on his cell phone.

6. On May 23, 2008, at approximately 2:10 p.m., undersigned counsel telephoned Mr. Scotti's office again and was informed by his assistant that she had tried to reach Mr. Scotti by telephone, but was unsuccessful. She further stated that she left voicemails at Mr. Scotti's cell phone and work phone numbers, but received no response.

7. On May 23, 2008, at approximately 4:00 p.m., undersigned counsel telephoned Mr. Scotti's office again and was informed by his assistant that she was still unsuccessful in reaching Mr. Scotti.

8. As set forth above, pursuant to Federal Rule of Civil Procedure 37 and Local Rule 37.2, counsel for Defendants' has in good faith attempted to confer with Mr. Scotti in an effort to obtain the documents requested in the subpoena without court action. Counsel's attempts have been unsuccessful through no fault of his own.

WHEREFORE, Defendants move this honorable Court to enter an order compelling the law firm of Freeborn & Peters to produce documents as requested in the attached subpoena and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

Kubiesa, Spiroff, Gosselar, Acker & DeBlasio, P.C.

By: /s/ Antonio DeBlasio
One of Defendants' Attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that he caused a copy of the attached **Defendants' Emergency Motion to Compel Production of Documents**, to be served upon all attorneys of record via ECF and via facsimile transmission according to their address of record as reflected on the attached Service List on May 23, 2008.

Respectfully submitted,

Kubiesa, Spiroff, Gosselar, Acker & DeBlasio, P.C.

By: /s/ Antonio DeBlasio
One of Defendants' Attorneys

SERVICE LIST

American Service Insurance Company

v.

NAFTA General Agency, et al.

2008 C 443

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